

**REMARKS**

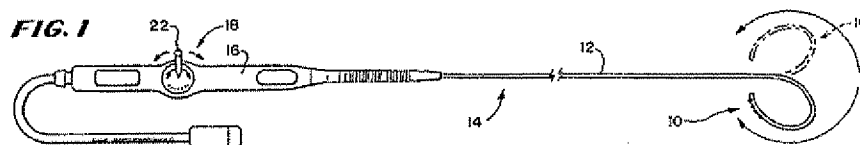
By way of summary, Claims 24, 25, 31–46 and 50 were pending in this application, with Claims 25, 35, 39, 41, and 43 being withdrawn from consideration. By this Amendment, Claims 24, 31, 32, 34, 38, 39, 45, 46, and 50 are amended and Claims 51–69 have been added; Applicant respectfully submits that no new matter has been introduced by these amendments. Accordingly, Claims 24, 25, 31–46, and 50–69 are now pending in this application, and Applicant respectfully requests consideration of the claims in view of the amendments set forth above and the comments provided below.

**Rejection under 35 U.S.C. § 103**

The Office Action rejected Claims 24, 31–34, 36–38, 45, 46, and 50 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,582,609, to Swanson et al., in view of U.S. Patent No. 5,716,397, to Myers, and further in view of U.S. Patent No. 6,102,945, to Campbell. Applicant respectfully submits that amended independent Claim 24 is patentable over the cited references at least because the cited references do not teach or suggest all the limitations recited in the amended independent claim.

**Swanson**

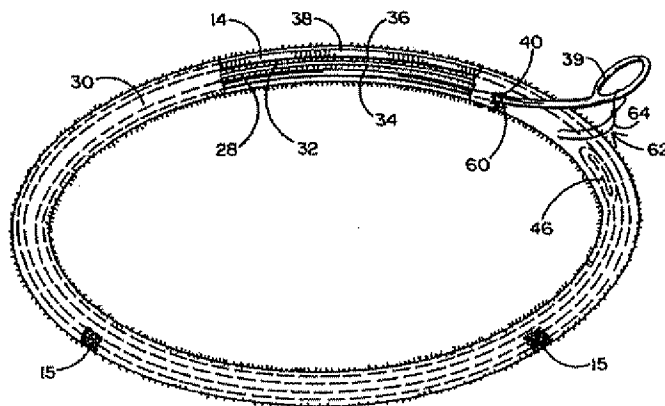
Swanson describes “systems and associated methods [that] form larger and deeper lesion patterns by shaping a support body with multiple electrodes in ways that increase the density of the electrodes per given tissue area,” and specifically “systems and methods for ablating myocardial tissue for the treatment of cardiac conditions.” Abstract; Col. 1:20–21. Swanson further



teaches: “the element 10 is carried at the distal end of a catheter body 12 of an ablating probe 14. The ablating probe 14 includes a handle 16 at the proximal end of the catheter body 12.” Col. 5:33–36. Figure 1 of Swanson is reproduced here for reference.

Myers

Myers describes that “a fully flexible annuloplasty ring is temporarily stiffened during implantation by inserting a withdrawable stiffening wire into a lumen of the ring. The annuloplasty ring has a lumen which is able to hold the stiffener prior to and during insertion. The stiffener includes a portion extending out of the lumen which can be pulled to withdraw the stiffener once the implant has been implanted.” Abstract. Figure 4 of Myers is reproduced here for reference.

Campbell

Campbell describes “a support ring for a natural human heart valve [that] includes a first ring portion having opposite terminal ends and a second ring portion having opposite terminal ends. An interconnector extends through and interconnects the first and second ring portions, to maintain the opposite terminal ends of the first ring portion adjacent the opposite terminal ends of the second ring portion, to form a segmented ring having a first and a second interface between the first and second ring portions.” Abstract. Campbell also states that “the ring portions are separable by severing the interconnector at the first and second interfaces, thus producing two variable size ring segments.” Abstract. Figure 2 of Campbell is reproduced here for reference.

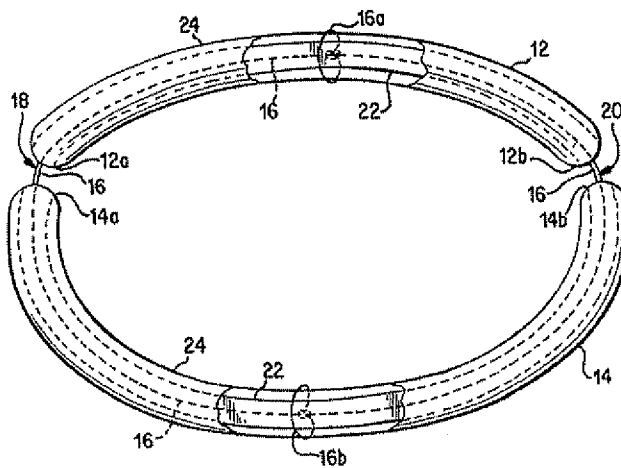


FIG. 2

Amended Independent Claim 24

Applicant respectfully submits that amended independent Claim 24 is patentable over the cited references, alone or in combination, at least because the cited references do not teach or suggest all the limitations recited in amended independent Claim 24.

Amended independent Claim 24 now recites, in part, “a cardiac pacing electrode, carried by the elongate body and configured to be implanted in the coronary sinus with the elongate body,” and “wherein the cardiac pacing electrode remains with the elongate body in the coronary sinus (i) after the elongate body is manipulated between the first configuration and the second configuration, (ii) after implantation of the elongate body within the coronary sinus, and (iii) after the portion of the forming element is removed from the coronary sinus.”

Applicant respectfully submits that the cited references, alone or in combination do not teach or suggest a cardiac pacing electrode, carried by the elongate body and configured to be implanted in the coronary sinus with the elongate body and wherein the cardiac pacing electrode remains with the elongate body in the coronary sinus (i) after the elongate body is manipulated between the first configuration and the second configuration, (ii) after implantation of the elongate body within the coronary sinus, and (iii) after the portion of the forming element is removed from the coronary sinus. Moreover, the cited references even fail to teach an implant that adjusts the mitral valve annulus from within the coronary sinus, as the annuloplasty rings taught by Campbell and Myers are not configured for implantation in the coronary sinus.

In summary, Applicant's present invention provides a medical apparatus configured for implantation in a coronary sinus and adapted for providing substantially continuous cardiac pacing while also continuously maintaining the mitral valve annulus in a remodeled condition. As a result, the present invention comprises a single apparatus which is capable of providing cardiac rhythm management to the heart while also improving the coaptation of the mitral valve leaflets. There is no teaching or suggestion in the cited references directed to an implantable medical apparatus having the ability to provide cardiac rhythm management while improving mitral valve function. Accordingly, Applicant respectfully submits that amended independent Claim 24 is patentable over the cited references, alone or in combination, and respectfully requests the rejection under 35 U.S.C. § 103(a) be withdrawn.

*Dependent Claims 31–34, 36–38, 45, 46, and 50*

Claims 31–34, 36–38, 45, 46, and 50–53 depend from amended independent Claim 24, and Applicant respectfully submits that these dependent claims are allowable for at least the same reasons set forth above with respect to Claim 24, in addition to the independently patentable subject matter recited in each dependent claim. Accordingly, Applicant respectfully submits that these dependent claims are patentable over the cited references, alone or in combination, and respectfully requests the rejection of Claims 31–34, 36–38, 45, 46, and 50 under 35 U.S.C. § 103(a) be withdrawn.

*New Independent Claims 54, 62, and 69*

Independent Claims 54, 62, and 69 have been added in this amendment, and Applicant respectfully submits that these independent claims are patentable over the cited reference, alone or in combination, at least because the cited references do not teach or suggest all the limitations recited in the new claims. These claims contain subject matter similar to those previously pending in this application, and Applicant respectfully submits that no new subject matter has been added to this application by these newly added claims.

New Claim 54 recites, in part, “a forming element coupled with the elongate body for manipulating the elongate body between the delivery configuration and the deployment configuration, the forming element having a first portion that is configured to be removed from the patient after implantation of the elongate body in the coronary sinus; and a cardiac electrode, carried by the elongate body and configured to remain with the elongate body after the first portion of the forming element is removed from the patient after implantation of the elongate body in the coronary sinus.” Applicant respectfully submits that the cited references do not teach or suggest, alone or in combination, at least these limitations and that new Claim 54 is patentable for at least these reasons over the cited references. Additionally, new dependent Claims 55–61 depend from Claim 54 and are patentable for at least the same reasons as Claim 54, in addition to the patentable subject matter recited in each of the dependent claims. Accordingly, Applicant respectfully requests that new Claims 54–61 be allowed in the next action.

New Claim 62 recites, in part, “a forming element that changes the elongate body between a first shape and a second shape such that, when implanted in the coronary sinus and in

the second shape, the elongate body changes a shape of the mitral valve annulus; and a cardiac pacing electrode, carried by the elongate body, the electrode being configured to remain with the elongate body after the forming element changes the elongate body to the second shape and after the delivery device is entirely removed from the patient.” Applicant respectfully submits that the cited references do not teach or suggest, alone or in combination, at least these limitations and that new Claim 62 is patentable for at least these reasons over the cited references. Additionally, new dependent Claims 62-68 depend from Claim 62 and are patentable for at least the same reasons as Claim 62, in addition to the patentable subject matter recited in each of the dependent claims. Accordingly, Applicant respectfully requests that new Claims 62-68 be allowed in the next action.

New Claim 69 recites, in part, “a forming element coupled with and shaping the elongate body, the forming element having a first portion that is removed from the patient after implantation of the elongate body in the coronary sinus; and a cardiac electrode, in or on the elongate body, configured to maintain electrical coupling with a cardiac rhythm management device after implantation of the elongate body in the coronary sinus.” Applicant respectfully submits that the cited references do not teach or suggest, alone or in combination, at least these limitations and that new Claim 69 is patentable for at least these reasons over the cited references. Accordingly, Applicant respectfully requests that new Claim 69 be allowed in the next action.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable action on this application. If any questions remain, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

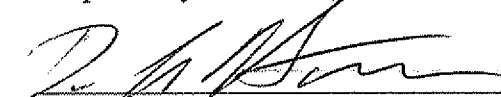
Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully reserves the right to traverse any of the Examiner’s rejections or assertions, even if not discussed herein.

Applicant respectfully reserves the right to challenge later whether any of the cited references are prior art. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present Application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicant reserves the right to contest later whether a proper reason exists to combine prior art references.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1225 (PVI-5813CIP1CON1) and please credit any excess fees to such deposit account.

Date: 10/15/08

Respectfully submitted,



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